IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No. 83 of 2006
With
CIVIL APPLICATION No. 4111 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE A.M.KAPADIA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JAGDISH NANUBHAI TEKRAWALA & 3 - Appellant(s)
Versus
NIRANJANBHAI DAYABHAI CHOKSI & 1 - Defendant(s)

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Appearance :
MR JB PARDIWALA WITH MS KJ BRAHMBHATT for Appellant(s) : 1 - 4.
MR SAURABH AMIN FOR NANAVATI ASSOCIATES for Respondent(s) : 1,
RULE NOT RECD BACK for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE A.M.KAPADIA

Date : 07/08/2006

ORAL JUDGMENT

1. Mr. Saurabh Amin, learned advocate for

Nanavati Associates, learned advocates of the appellants, upon instructions received from respondent No.1, Niranjanbhai Dayabhai Choksi, and without prejudice to the rights and contentions of respondent No.1, states that respondent No.1 shall not forcibly dispossess appellant No.3 from the suit premises, i.e., Bungalow No.9, Kadampalli Society, Nanpura, Timbaliya Wad, Surat till Special Civil Suit No.69 of 2004 pending before the learned Civil Judge (SD), Surat is decided by that Court.

2. In view of the aforesaid statement made by Mr. Saurabh Amin, learned advocate for the appellants, Mr. JB Pardiwala, learned advocate with Ms. KJ Brahmbhatt, learned advocate for the appellants, do not press this Appeal from Order and urge to pass appropriate orders disposing of the Appeal from Order.

3. In view of the above, this Appeal from

Order is disposed of as it is not pressed with no order as to costs.

4. In view of the disposal of the Appeal from Order, the statement made by Mr. Amin, learned advocate of respondent No.1 at the time of admission of the Appeal from Order to the effect that respondent No.1 shall not initiate any coercive measures to dispossess the plaintiff now does not survive.

5. As the Appeal from Order is disposed of as not pressed, Civil Application No. 4111 of 2006 which is filed for stay does not assume any survival value and hence the same is also disposed of with no order as to costs.

6. On the facts and circumstances merging from the record of the case, learned Civil Judge (SD), Surat, before whom Special Civil

Suit No. 69 of 2004 is pending for final disposal shall give top priority to the hearing of the suit and decide the same as expeditiously as possible and preferably on or before 31.12.2006.

(A.M. Kapadia, J.)

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